

April 10, 2019

Mr. Joseph Caterino, P.E.
RES
1408 B Roseneath Road
Richmond, VA 23230

RE: Mardella Run Restoration at Lot 75 of Offutt Ridge
Forest Buffer Variance
Tracking # 04-19-2944

Dear Mr. Caterino:

This Department received a request for a variance from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on March 6, 2019. The request proposes to temporarily impact approximately 2,881 linear feet of Mardella Run (Use III) on lot 75 of the Offutt Ridge subdivision. This restoration would include planting 4.81 acres of riparian buffer along the restored channel. The proposed disturbance to the stream system is necessary for a stream restoration project being done to provide TMDL credit for the Maryland State Highway Administration (SHA). A Natural Resource Conservation Area (NRCA) encompassing the stream system and a Declaration of Covenants requiring non-disturbance of the NRCA (recording reference 8486/662) were recorded as a condition of Offutt Ridge's approval in 1990 in accordance with Baltimore County's Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains that were in effect at the time.

This Department reviewed your request and has determined that a practical difficulty exists given that the stream restoration and wetland enhancement is not possible without temporarily impacting the stream system and the NRCA. We have also determined that overall impacts to water quality will be minimized in the long term, as the proposed impacts are temporary and serve to provide a stable stream system with functional riparian buffer. This restoration would significantly improve water quality and habitat value of the stream system.

Based on the findings above, we will grant this variance in accordance with Section 33-3-106 of the Baltimore County Code, with the following conditions:

1. All portions of the NRCA disturbed for the restoration project shall be planted with native deciduous species of trees prior to November 10, 2019. Trees shall be container-grown stock a minimum 5-6 feet high and adequately sheltered.

2. Surveyed limits of the entire NRCA on lot 75 shall be permanently posted at 100-foot intervals or at any of its corners with "Forest Buffer - Do Not Disturb" signs prior to November 10, 2019. Upon completion of the stream restoration, there shall be no further farming or other disturbance of the NRCA in perpetuity.
3. A Forest Buffer Protection Plan (i.e. FBPP) detailing the buffer mitigation required above and including an itemized cost estimate for its implementation shall be submitted to EPS staff for review and approval. The landscape plan portion of the construction drawings may be retitled as a Forest Buffer Protection Plan and revised to address these conditions. EPS cannot approve the grading and ESC plans for this project until the final FBPP is approved. Additionally, the construction plans must meet all Maryland Department of the Environment (MDE) and U.S. Army Corps of Engineers (ACOE) requirements.
4. Prior to grading permit approval, an Environment Agreement shall be signed, and a Forest Buffer Protection security based on 110% of the aforementioned cost estimate shall be posted with EPS. Reduction of that security shall be in accordance with Section 32-4-313 of Baltimore County Code and that reduction schedule outlined on the FBPP along with the maintenance and monitoring details.
5. The following note must appear on all plans submitted for this project:

A variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on April 10, 2019. Conditions were placed on this variance to reduce impacts to water quality including posting of protective signage along the protective easement as well as riparian buffer planting onsite.
6. Documentation of MDE and ACOE authorization of the restoration must be provided to EPS prior to issuance of any Baltimore County permit.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the parties responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

DVL:ges

- c. Mr. John Creighton, Property Owner
Mr. Ryan Cole, Maryland State Highway Administration

I/we agree to the above conditions to bring my/our property into compliance with Law for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Property Owner's Signature

Date

Property Owner's Printed Name

Contract Purchaser's Signature

Date

Property Owner's Printed Name